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{ REPORT
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**EQUAL EXPORT OPPORTUNITY ACT
AND THE INTERNATIONAL ECONOMIC
POLICY ACT OF 1972**

**REPORT
OF THE
COMMITTEE ON BANKING, HOUSING AND
URBAN AFFAIRS
UNITED STATES SENATE
TO ACCOMPANY
S. 3726
TOGETHER WITH
ADDITIONAL VIEWS**



JUNE 19, 1972.—Ordered to be printed

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(II)

THE EQUAL EXPORT OPPORTUNITY ACT AND THE
INTERNATIONAL ECONOMIC POLICY ACT OF 1972

JUNE 19, 1972.—Ordered to be printed

Mr. MONDALE, from the Committee on Banking, Housing and Urban
Affairs, submitted the following

REPORT

[To accompany S. 3726]

together with

ADDITIONAL VIEWS

The Committee on Banking, Housing and Urban Affairs, having considered the same, reports favorably a committee bill to extend and amend the Export Administration Act of 1969 to afford more equal export opportunity, to establish a Council on International Economic Policy, and for other purposes, and recommends that the bill do pass.

Purpose of the Legislation

The purpose of Title I is to facilitate prompt removal of United States unilateral export controls which are not necessary to protect our national security, to insure that the commercial and technical expertise of private industry is utilized as effectively as possible in the administration of export controls, and to extend until June 30, 1974 the President's authority to control exports under the Export Administration Act.

The purpose of Title II is to provide a mechanism for the coordination of all the many departments and agencies of the U.S. Government engaged in actions affecting U.S. international economic policy.

Title I contains the following key provisions:

1. It requires the Secretary of Commerce (hereafter "the Secretary") to direct a study to determine which goods and technology should no longer be subject to export control because of their significance to the national security of the United States.

2. It directs the Secretary to remove export controls from any item now controlled unilaterally by the United States, which is freely available from foreign sources, unless adequate evidence is presented that decontrolling the item would threaten the national security. (Unilaterally controlled in this case means subject to United States export controls covering items which are not subject to an agreed level of control within the framework of COCOM. COCOM controls are applied by the NATO countries plus Japan but not including Iceland.)

3. It requires the Secretary to report on his actions in six months by listing the reasons for retaining unilateral controls on any item and the reasons for retaining any procedures concerning the licensing process which are more burdensome than the procedures used by our Allies.

4. It requires the Secretary to create industry-government technical advisory committees for each group of goods and technology which could be subject to export controls and is difficult to evaluate for technical and strategic reasons.

5. It extends the Export Administration Act to June 30, 1974.

Title II contains the following key provisions:

1. It establishes a Council on International Economic Policy responsible to the President. Members of the Council shall include: the President, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Special Representative for Trade Negotiations.

2. It creates the office of Executive Director of the Council on International Economic Policy who is to be appointed by the President.

3. It gives the Council authority to advise the President concerning various aspects of U.S. international economic policy, and the responsibility for assisting him in coordinating policy in this area.

4. It requires the President to transmit to the Congress each year a Report on International Economic Policy, which is to be prepared with the assistance of the Council.

5. It authorizes an appropriation not to exceed \$1,400,000 in FY 1973, and \$1,600,000 in FY 1974 for the Council.

Need for Legislation

The Committee believes that Title I of this legislation is needed because the United States is handicapping itself by continuing to control the export of many items which are not of strategic value and are not controlled by our foreign competitors. While it is essential to the national security that the government continue to restrict the export of some items to Communist countries, the Committee believes that restricting the export of items which can be bought freely from our Western European or Japanese competitors does not benefit the national security. Excessive restrictions result in a worsened balance of payments situation, fewer export sales for American industries, and fewer jobs for American workers. In 1970 the United States share of the World market was 16%, but the U.S. share of the Eastern European market was only 3%. It will be difficult to improve the export performance of United States industries in Eastern Europe unless unne-

essary restrictions which prevent them from competing on an equal footing with foreign competitors are eliminated.

Representatives of the Administration pointed out in testimony that much progress has been made in decontrolling non-military exports since the enactment of the Export Administration Act in 1969. It is true that the number of items which have been decontrolled is substantial. Decontrol actions have varied a great deal, however, from industry to industry. Some industries have seen very few of their products decontrolled, while others have witnessed decontrol only of low technology items for which foreign demand is limited. For example, some time ago, the machine tool industry submitted extensive data to the Office of Export Control, showing that many non-strategic machine tools were readily available from European and Japanese sources. Today, virtually all machine tools, including general purpose tools such as grinders, transfer machines, milling machines, and lathes, are still subject to unilateral United States export control.

At this time the United States controls 495 classifications of goods and technology by multilateral (COCOM) agreement with our Allies. In addition, the United States chooses to retain unilateral controls on 461 classifications of goods and technology. The United States is the only COCOM country which controls the export of a significantly greater number of items than those which the COCOM agree to control multilaterally. Some of the items under unilateral control are eventually granted export licenses, but the delay and uncertainty in the licensing process often costs American exporters sales even when this happens. Twenty-six percent of the applications for export licenses to Eastern Europe, involving many of the high technology items in which the Eastern Europeans are most interested, took more than 15 working days to process.

Some of the groups of items which are now subject to unilateral controls that may not be necessary to protect the national security are chemicals, electrical machinery, other types of machinery including machine tools, and certain types of fabrics and materials.

To help alleviate these problems the legislation mandates that items which are available in comparable quality and quantity from foreign sources shall be removed from unilateral controls unless the Secretary gives adequate evidence that such decontrol would threaten the national security. Present law requires that the President report his reasons to Congress whenever he decides to require export licenses on an item because "considerations of national security override considerations of foreign availability." The Committee finds, however, that such reports have not been detailed enough to be of assistance in evaluating the President's decisions. Such explanations should contain more information in the future, to the extent considerations of national security permit.

The legislation directs the Secretary's attention to items under unilateral control which are available from foreign sources. There may be other types of items, however, which are unnecessarily controlled. For example, some items may be controlled because of an overly cautious interpretation of what constitutes "significant military applicability". The Committee would welcome the decontrol of such items.

Several industry witnesses testified before the Committee that U.S. exporters face licensing procedures which are more burdensome than those faced by exporters in other COCOM countries. They alleged that processing time for licensing applications is longer in the United States than abroad. It has also been reported that our COCOM competitors provide advantages to their exporters by giving them a better idea of which licensing applications will receive favorable action, referring their applications for exceptions to COCOM regulations to the COCOM with less preliminary screening, requiring less documentation regarding the end use of the item to be exported, imposing less stringent requirements for ensuring that an item is never diverted for strategic use, granting more liberal licensing provisions for supply spare parts, and in several other ways. The Committee does not have enough evidence to take a position on these allegations. It believes, however, that procedures and licensing requirements which are more burdensome than those used by our Allies would severely handicap American exporters. Therefore, the Committee urges the Secretary to scrutinize carefully these procedures and requirements.

The establishment of industry-government technical advisory committees will enable the government to utilize more effectively the technical and commercial expertise which only representatives of industry affected by export controls can provide. Industry witnesses testified that decisions concerning export controls are sometimes based on inadequate or inaccurate information. The government officials making these decisions are responsible for applying export controls to many types of items. They are necessarily generalists, and it is impossible for them to become familiar with the intricacies of each product which must be regulated. Yet that is exactly what is necessary, for example, to give the definitions of items on the export control list the needed precision and uniformity. These decisions are technical, but they are also important business decisions. The technical advisory committee can help make them. These committees can also be of assistance in discussing more general questions of export control; for example, in defining the level of technology in their industry which is advanced enough so that the exportation of items reaching that level of technology could be a significant addition to a country's military capacity. In addition, the Committee would serve the vital function of keeping industry informed with regard to the latest developments in the administration of export controls.

Several members of the Committee expressed concern that the technical advisory committees' work would be severely hampered by the necessity to refrain from discussing classified information or information that industry does not want to divulge in the presence of its competitors. The Committee believes that the technical advisory committees can serve a valuable function without having access to such information. Industry representatives would be willing to discuss the functions of their products in detail at the committee meetings, just as they would have to discuss such functions with any potential buyer. Such information is essential in determining whether an item is strategic. In addition, it is expected that many of the meetings will concern the basic policies underlying the export control program in the light of changing international and technological conditions. Such discussions need not involve classified information or trade secrets.

The Committee hopes that technical advisory committees can be established and operated in a manner which will avoid creating delays in the export licensing process. Because technical advisory committees are only to be created for groups of items that are difficult to evaluate from a technical and strategic standpoint the number of such committees should not become excessive. The Committee does not expect these committees to be involved in the licensing process on a case-by-case basis. Their involvement will instead be principally in the decisions affecting groups of items. In addition, the legislation recognizes that the administrators of export controls may need to consult a specific expert on some particular problem even though that expert is not a member of a technical advisory committee. It expressly gives the administrators the flexibility to engage in such consultations.

The Committee does not intend that any section of this Title should be construed to require any action which is detrimental to the national security, or the divulgence of any classified information or confidential industry information protected in section 7(c) of the Export Administration Act to unauthorized parties. Nor does the Committee intend the provisions of Title I to be used as a basis for legal action by exporters. In the Committee's opinion, Title I will help to increase East-West trade without threatening our national security. This will be beneficial for all nations involved.

Section-by-Section Summary

Sec. 101. This Title may be cited as the "Equal Export Opportunity Act of 1972". It amends PL 91-184, the "Export Administration Act of 1969".

Sec. 102. This section amends the Findings of PL 91-184 and emphasizes that the unwarranted restriction of exports has a particularly serious adverse effect on the U.S. balance of payments when the restrictions are more extensive than those applied by our Allies.

Sec. 103. *Declaration of Policy.* This section stresses that export control policy should be determined after review by and consultation between representatives of government and private industry.

Sec. 104. This section amends section 3 of the Export Administration Act and requires the Secretary of Commerce in cooperation with appropriate government agencies and technical advisory committees (see Sec. 105 below) to undertake an investigation to determine which goods and technology should be decontrolled. Unilateral controls would be removed from all items which are available without restriction from foreign sources in significant quantity and comparable quality, unless adequate evidence is presented that such decontrol would threaten national security. In conducting the investigation of items subject to export control, the Secretary would give priority to items for which there are significant potential export markets. Within six months after this Title is enacted the Secretary would submit a special report to the President and Congress. The report would list items which are still subject to unilateral controls and the reasons for retaining the controls, including the nature of any evidence submitted to illustrate that control of an item is necessary despite its foreign availability. It would also list any procedures applicable to the U.S. export licensing process which are more burdensome than similar procedures used by our Allies and the reasons for retaining such procedures.

Sec. 105. This section requires the Secretary of Commerce to appoint technical advisory committees for each group of goods and technology which is or may be made subject to export controls and which is difficult to evaluate from a technical or strategic standpoint. These committees would consist of government and industry representatives appointed for two year terms. No industry representative could serve two consecutive terms. It would be the duty and function of the technical advisory committees to advise all agencies and officials involved in the administration of export controls. Each technical advisory committee would be consulted and informed with respect to the level of all export controls on the group of items within its technical competence, including both unilateral controls and those imposed by the COCOM. The technical advisory committees would also be consulted and informed with respect to the investigation and decontrol actions undertaken under this Title. The administrators of export controls may con-

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sult at any time with any person they deem appropriate regardless of whether he is a member of a technical advisory committee. The public would be given a chance to submit evidence for the technical advisory committees' consideration. Arrangements are made for the reimbursement of non-government members of the technical advisory committees. Each technical advisory committee would meet at least four times annually at the call of its elected chairman. Nothing in this Title shall be construed to require the release or publication of either classified information or information which would be competitively disadvantageous to any industry or company.

Sec. 106. The Export Administration Act is extended from August 1, 1972, to June 30, 1974.

Sec. 107. This section states that nothing in this title shall be construed to require the release or publication of classified information or of confidential business information already subject to safeguards in Section 17(c) of the Export Administration Act of 1969.

Sec. 201. This title may be cited as the "International Economic Policy Act of 1972."

Sec. 202. *Statement of Purposes.* This section states that it is the purpose of this title to provide for closer Federal interagency coordination in the development of the international economic policy of the United States.

Sec. 203. *Findings and Policy.* This section finds that the international economic policy of the United States is a composite of the actions of a great many Federal departments and agencies. This section further finds that better coordination is needed between these departments and agencies acting in the foreign economic area as well as between domestic and foreign economic policy. To achieve better coordination, this Act establishes a Council on International Economic Policy. The Council is designed to achieve a clear top level focus on international economic issues including trade, investment, balance of payments, and finance, as well as consistency between domestic and foreign economic policy and coordination between economic policy and foreign policy objectives.

This section further states that it is the purpose of the Congress that the Council have the opportunity to investigate problems concerning the coordination, implementation and long-range development of international economic policy. The intention is that these investigations should lead to findings and recommendations which will assist in the development of a more rational and orderly international economic policy for the United States.

Sec. 204. *Creation of a Council on International Economic Policy.* This section creates in the Executive Office of the President a Council on International Economic Policy.

Sec. 205. *Membership.* This section specifies that the members of the Council on International Economic Policy shall include: the President, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Special Representative for Trade Negotiations.

It also specified that the President may appoint additional members to the Council and that he is its chairman, but may appoint another member of the Council to preside in his absence.

The Committee did not wish to make the chairman of the Federal Reserve Board a member of the Council because of the special independent character of that organization. However, the Committee did wish to affirm that the Federal Reserve Board should be consulted closely on questions involving international economic policy which relate to the Board's responsibilities, and that the expertise of the Board should be available to the Council.

Sec. 206. *Duties of the Council.* This section states that the Council is subject to the direction of the President. In addition to performing such functions as he may direct, the Council shall also assist and advise the President in the preparation of the International Economic Report which is required in section 207 of this Act.

Section 206 further prescribes that the Council review the activities and policies of the United States Government in the international economic area so that it can make recommendations to the President on this subject. The Council is instructed specifically to study the economic activities of various agencies, departments and instrumentalities of the Federal Government, of the several States, and private industry.

The Council also should collect, analyze and evaluate information concerning current and future international economic trends; consider policies and programs for coordinating activities of U.S. governmental departments and agencies, and assess the progress and effectiveness of Federal efforts designed to promote a more consistent international economic policy.

This section states further that it is the duty of the Council to make policy proposals relating to monetary mechanisms, foreign investment, trade, the balance of payments, foreign aid, taxes, international tourism and aviation, and international treaties and agreements relating to such matters. Other related areas could also be the subject of recommendations by the Council as well.

Policy proposals developed in fulfilling the requirements of this section should be put forward with a view to strengthening U.S. competitiveness, improving the balance of payments, increasing exports, protecting and improving foreign investments, improving reciprocal trade relations, and the real employment and income of workers and consumers as a result of international economic activity.

Sec. 207. *Report.* Subsection (a) of this section requires that the President transmit to the Committee on Banking, Housing and Urban Affairs of the Senate, the Committee on Banking and Currency of the House of Representatives, and the Joint Economic Committee an annual economic report on the international economic position of the United States. It requires that this Report be submitted not later than sixty days after the beginning of each regular session of the Congress.

The Committee, however, believes that the Report should be submitted at approximately the same time as the Economic Report of the President, which also covers international economic policy questions. This would make it possible for the Joint Economic Committee to hold hearings on this report in conjunction with its hearings on the President's Economic Report. The Employment Act of 1946 as amended requires the Economic Report be submitted not later than January 20 each year unless specifically amended.

The report should include information and statistics describing international economic activity and identifying current and foreseeable future trends and developments. It should also include a review of the international economic program of the Federal Government and a review of domestic and foreign economic conditions and other matters significantly affecting the U.S. balance of payments, trade, investment, financial and monetary positions. It should include a program and recommendations for carrying out the objectives of this legislation as well.

Subsection (b) says that the President may transmit to the Congress from time to time other reports which supplement the International Economic Report.

Sec. 208. *Executive Director and Staff of the Council.* Subsection (a) of this section provides that the staff of the Council shall be headed by an executive Director who shall be appointed by the President. The duties of the Executive Director include directing the activities of the Council staff, developing the agenda and supporting material for Council meetings and reviewing all matters before the Council, and establishing a work program including the selection of topics for particular work and individuals to carry them out.

Subsection (b) says that the Executive Director may, with the approval of the Council, appoint and fix the compensation of such staff as he thinks are necessary. The staff of the Council shall be appointed subject to the provisions of title 5, U.S. Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of this title relating to classification and General Schedule pay rates, except that with the approval of the Council, the Executive Director may appoint one officer at a pay rate not to exceed level IV and two at a level not to exceed level V of the Executive Salary Schedule.

Subsection (c) of this schedule provides that the Executive Director may, with the approval of the Council, procure temporary and intermittent services to the extent authorized by section 3109 of title 5, U.S. Code, at rates not to exceed the daily equivalent of the rate provided for GS-18.

Subsection (d) provides that heads of Federal agencies are authorized to detail personnel to the Council upon the request of the Executive Director.

Subsection (e) amends Section 5315 of title V, U.S. Code (relating to positions at level II of the Executive Salary Schedule) by adding the Executive Director of the Council on International Economic Policy.

Sec. 209. *Authorization for Appropriations.* This section authorizes appropriations at a level not to exceed \$1,400,000 for fiscal year 1973, and not to exceed \$1,600,000 for fiscal year 1974, for carrying out the provisions of this title.

Cordon Rule

In the opinion of the Committee, it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with this report.

Additional Views of Mr. Mondale

I fully support Title I of this bill, which makes certain changes in the Export Administration Act. However, I have serious reservations about one aspect of Title II, which authorizes funds for a Council on International Economic Policy.

My objections to Title II are based on the fact that the Council's Executive Director would not have to be confirmed by the Senate.

The issue here is not whether there should be a Council on International Economic Policy. Such a body is needed to improve coordination of our international economic policies.

However, the crucial issue is whether Congress should give this Council the authority and the money to coordinate the functions of existing Federal departments and agencies—without requiring that its Executive Director come before the Senate for confirmation.

Increasingly, the most important decision-making officials in our government are hidden from public view and beyond Congressional scrutiny. If we agree to fund this Council without requiring Senate confirmation for its Executive Director, we will be acquiescing in a trend which is inconsistent with the checks and balances of our constitutional system.

This Council will perform a very vital function, and its Executive Director will inevitably make important judgments about sensitive matters of public policy. The Congress should not give such a body statutory status without providing the Senate the confirmation power it reserves for important policy-making positions.

WALTER F. MONDALE.

Additional Views of Senators Tower and Bennett

We agree that there is continuing need for statutory authority to control exports on grounds of national security, foreign policy and domestic short supply. We believe, however, that the statutory authority contained in the Export Administration Act of 1969 is adequate to carry out these purposes. In particular, in the area of East-West Trade, the Act contains all of the flexibility needed for the Administration to pursue a policy of trade expansion without jeopardizing the national security interests of the United States.

We believe that the actions taken by this Administration in decontrolling many commodities with the extensive informal advice of industry technical experts demonstrates that no revisions to the Act are necessary. We therefore favor a straight extension of this legislation in its present form. If the Congress believes that it would be desirable to reemphasize the Congressional intent that review of the control list should continue to proceed as expeditiously as possible, and that greater use of industry experts should be made by government in areas where technological developments are difficult to evaluate, we would not object to some revisions designed to spell out this Congressional intent.

We do, however, strongly oppose the amendments reported by the Committee because we believe these would (1) impose new criteria for retaining controls on items available abroad, which could require the executive branch to take decontrolling actions adverse to our national security; (2) require the establishment of a formal industry advisory structure which would actually delay rather than facilitate the decontrolling actions currently in process and could deter American manufacturers from disclosing to the government highly sensitive data concerning their products; (3) impose reporting requirements which are unnecessary insofar as they duplicate reporting requirements already existing under the Export Administration Act, but which are also unreasonably burdensome in some respects; (4) by retaining in the Act certain provisions enacted in 1969, render the Act both confusing and cumbersome to administer.

Criteria for Controlling Items Available Abroad

Section 4(b) of the Export Administration Act currently provides that the President may deny requests for the exportation of commodities and technical data otherwise available abroad from Free World sources, if he "determines that their export would prove *detrimental* to the national security of the United States," but whenever he makes such a determination, he must report his reasons to the Congress.

The aforementioned Section would remain in the Act as amended; however, a new paragraph (2) would be added to Section 4(b) which, in part, would require the Secretary of Commerce to decontrol the export of items which are available abroad unless he has adequate

evidence demonstrating "that the absence of such a control would constitute a *threat* to the national security of the United States." In such event, the Secretary of Commerce would be required to report to the President and to the Congress the nature of such evidence.

We believe that the change of the criteria from "detrimental" to a "threat," if enacted, would place the executive branch in the untenable position of having to decontrol items which, if exported to certain destinations for certain purposes, would have a definite adverse impact on our national security. It may be difficult, if not impossible, for the government to find that the export of any strategic item which is not a military weapon constitutes a *threat* to national security. The availability of a given item from sources outside the United States may reflect an honest disagreement between the U.S. and other governments of the Free World as to its strategic significance. We believe that the determination of what is detrimental to the national security of the U.S. should rest with our government and not be dictated by the governments of other countries. Moreover, we can conceive of situations where our efforts to persuade other governments to control their exports of a particular strategic item would be doomed to failure, if the U.S. were forced, in the meantime, to decontrol it under this new criteria.

Consultation with Industry

Section 105 of the Bill would add a new subsection (c) to Section 4 of the Act which would require the administrators of the Act to consult with advisory committees in determining which commodities and technical data are to be subject to export control and the level of that control. Such consultation would be effected through joint government-industry technical committees which, under the Act, must be established when broadly prescribed circumstances prevail.

We are not opposed to consultation. We think it useful and valuable for such a program as the control of exports. Indeed, the Export Administration Act of 1969 and prior thereto, the Export Control Act of 1949, expressly provided that information and advice shall be sought from industry in connection with the making of export control determinations. The Bill goes well beyond this, however, by requiring that industry be consulted on decisions that are properly the responsibility of government and by stipulating the manner in which such consultation shall be effected.

The proposed Section 4(c) would require the establishment of joint industry-government technical advisory committees to "advise and assist" the Secretary of Commerce "with respect to actions designed to carry out the policy set forth in Section 3 of the Act" and "with respect to the level of United States export controls" applicable to all commodities and data. In addition, the Secretary would be required to keep these committees fully informed of his progress in the review of the control list. These functions involved broad judgments concerning the national interest including evaluations of technical information, intelligence data, and strategic and political considerations. We believe that these judgments are governmental responsibilities which industry experts are not in a position to make.

Section 105 contains a provision stating that the Secretary of Commerce is not required to make either classified information or confiden-

tial business information available to the technical advisory committees. With such a limitation, the advisory committees, it appears would be limited to providing advice with respect to technical matters, worldwide availability of products and technology, technical developments and licensing procedures as they involve industry practices.

The evaluation of these data and the determination of levels of controls to serve our national security and foreign policy interests which must also include the evaluation of classified information and confidential industry information, should therefore remain solely the responsibility of the President and the Secretary of Commerce and their governmental advisors. Furthermore, Section 105 of the Bill, by directing the administrators of the Act to consult with industry through formally established committees will, we believe, introduce administrative burdens that would actually complicate and hinder consultation and in certain circumstances might well prejudice carrying out the national security objective of the Act.

Clearly, the provisions of Section 4(c) are not necessary to induce consultation with industry. The Department of Commerce testified before our Committee that as part of its standard operating procedure it consults extensively with industry generally in an informal way. In connection with the Department's review of its Commodity Control List, many trade associations and private firms in major industry and commodity areas have participated in the fact-finding process and submitted recommendations regarding control levels and procedures. We also understand that officials and technicians of more than fifty companies have been consulted in connection with the current COCOM list review.

The informal approach to consultation practiced by the Department of Commerce permits a flexibility that is important to prompt and effective communication with industry representatives. Export control problems are so varied and their technical character frequently so specialized that it is necessary to vary the consultation technique to match the particular need of the moment. The system of formal committees called for by the Bill and the need to communicate with industry through them will limit this essential flexibility and introduce rigidities that, in our judgment, will delay rather than facilitate consultation and control decisions. Under Section 4(c) a committee must be appointed, once a technical question has arisen that makes it difficult to evaluate the need for control. Members of the public would be given a reasonable opportunity pursuant to regulations of the Secretary of Commerce to present evidence to such committees.

These requirements could delay a decision for a considerable period. It is true that the Bill prescribes the circumstances under which committees must be established and thereby appears to limit their number. However, this limitation is more apparent than real. The prescription "difficult to evaluate for technical or strategic reasons" is so broad as to call for a formal committee whenever there is a technical difficulty that necessitates consultation with industry experts.

The inability to make control decisions promptly might well have serious consequences by calling for the appointment and consultation of technical advisory committees to deal with commodities or data that "may" be made subject to export controls. In effect, the Bill could

preclude the Department from placing under control a new product having apparent strategic significance, until a committee has been formed and has examined it. In the meantime, the commodity or data could be freely shipped. A subsequent finding, after committee consultation, that the commodity or data should be controlled for national security reasons could be too late to adequately protect national security. In an age of rapid technological advance in weaponry and military support items, this should be of serious concern to all of us.

Of less importance than the foregoing difficulties, but nonetheless worthy of note is the administrative burden of establishing and operating what is likely to be an extensive structure of technical advisory committees. The administrative complexities of the export control program should be reduced and not increased.

The House of Representatives recently considered and passed a bill, the Federal Advisory Committee Standards Act, which seeks to limit the uncontrolled and unproductive growth of advisory commissions. The remarks of the floor manager of this bill, Representative John S. Monagan, Chairman of the Subcommittee on Legal and Monetary Affairs of the House Committee on Government Operations, are instructive as to the many problems involved in the continued creation of advisory commissions and committees:

Mr. MONAGAN. Mr. Chairman, the purpose of this bill is to make ground rules for the operation of the advisory commissions which extend throughout the executive branch of the Government. In recent years, particularly, there has been a tremendous proliferation of these commissions.

Really they have gotten out of hand. Because of their influence they have been referred to as the "fifth arm of the government." It has been estimated, for example, that there are up to 3,200 of these advisory commissions which are circulating about, out in outer space without any substantial control over them.

It is the belief of the committee, and it is my belief that portant, but also the number of people who are involved in their activities. It has been estimated that there are up to 20,000 people serving on various of these commissions, and that there is a staff of some 4,400 engaged in their activities.

Not only are many people involved and are there so many commissions, but substantial sums of money are spent in the pursuit of these activities. It has been estimated that between \$65 and \$75 million a year is expended upon advisory commissions of various types. For example, the National Commission on the Causes and Prevention of Violence spent \$1.3 million. The Commission on Obscenity and Pornography spent almost \$1.8 million. The recommendations of these commissions were substantially repudiated, and in some cases even before a formal report had been made.

It is the belief of the committees, and it is my belief that there is a tremendous waste of time in the operation of these commissions, because the executive branch members of the Cabinet serve on as many as 43 advisory committees. The com-

mittees are too often inefficient and in many instances there are duplications. In some instances, five or six different commissions have been constituted to cover the same subject.

The enormous costs and inefficiencies involved in the creation of the type of committees such as are involved in the present legislation must be considered by Congress before action to approve the bill is taken. The committees proposed to be created in the bill will not only detract from the most direct route to the processing of Export Administration Act matters, but will also place a large number of well-paid business executives on the government payroll at the GS-18 level, an aspect of this legislation which the taxpayers of this country are not likely to applaud. With some 20,000 people already serving on advisory commissions, it is hardly time to create additional ones—it is rather time to cut them back to manageable levels. The House passed the Federal Advisory Committee Standards Act by a vote of 357 to 9, and it would be well for the Senate to take their action into consideration before acting on the present legislation.

In summary, we believe that consultation with industry, while desirable, should be limited to technical matters and questions of foreign availability. Moreover, in circumstances calling for flexibility and variety, it is likely to be counterproductive for the Congress to dictate such a formal approach. In our judgment, the law should content itself with providing a clear declaration of Congressional intent that technical advice should be sought from industry.

The Reporting Requirements are Unnecessary and Burdensome

Section 104 of the Bill would add a new paragraph (3) to Section 4(b) of the Act which would require the Secretary of Commerce within six months from enactment to submit to the President and to the Congress a special report regarding his investigation of the list of commodities and technical data controlled on national security grounds and the actions he has taken to decontrol items from that list. We note that Section 4(a) (1) of the Act currently contains a similar reporting requirement. On that basis we fail to see the usefulness of a special report and should point out that its preparation would require the time and attention of manpower which could best be utilized in the on-going review of the Control List. In addition, the special report is required to contain (A) a list of all items subject to U.S. unilateral controls with the reasons for such greater controls, and (B) a list of U.S. export licensing procedures which are more burdensome than those of the other COCOM countries, together with the reasons therefor.

With respect to the requirement in item (A) above, the list of entries subject to U.S. unilateral controls is already available, such entries being identified in the Department of Commerce's published Commodity Control List. However, the reasons for controlling these may vary from one category to another. In some, the strategic significance of items in the category may be known but cannot be disclosed for national security or foreign policy reasons. Other entries on the Control List are controlled because they constitute so-called "basket" categories. An example of a "basket" category is "Other Silicone, Rubbers, and Compounds", containing thousands of individual products, many of which cannot be specifically identified because it is an area

of continual product development. However, many of the products in this "basket" would be likely to have military applications.

Finally, some categories may include known items for which there are strategic implications which have not yet been evaluated under the on-going review of the Control List. If the committee intends that the government merely provide a reason for retaining each category under control, we believe this aspect of the report will not prove very meaningful, and will only constitute an added burden on the government's limited manpower. If on the other hand, a justification is expected for each entry retained under unilateral controls, this would, for the reasons we have given, require the government to have completed its review of all its unilateral controls within a six-month period, a task which is not feasible.

As for the reporting requirement contained in item (B) above, it presupposes that the U.S. has knowledge of, or is able to obtain comprehensive information concerning, the licensing practices of the other COCOM members. Each COCOM nation adheres to general administrative principles in implementing its international commodity controls. As sovereign nations, however, each nation establishes its own licensing procedures, some of which are in published form, and some of which involve internal administrative techniques and policies which are unpublished and not readily available to other COCOM members. To secure access to unpublished data, if indeed such information were available, would be an impossible task within the 6-month deadline. This would require analysis of the control systems administered by 15 different nations, in terms of identifying comparability and varying techniques and nuances.

Confusion will arise from similar but inconsistent provisions

The haste in which the amendments now contained in Title I of the bill were drafted and adopted is evidenced not only in the substance of these provisions, but also in the fact that there are existing provisions of the Act which are inconsistent with the amendments proposed. For example, the Bill would amend Section 4(b) to require a review of the U.S. control list without repealing that portion of Section 4(a)(1) of the Export Administration Act which requires such a review under somewhat different terms. The latter review is still ongoing, but failure to repeal the earlier language could lead to the absurd result of two reviews proceeding concurrently under different criteria. The same observation applies to the criteria and reporting requirements for retaining controls in situations where the commodity or technical data is available abroad. Literally, the Act as amended, would contain different criteria in Section 4(b)(1) from those in Section 4(b)(2).

The President could determine under Section 4(b)(1) that controls should be retained on the export of a particular commodity notwithstanding foreign availability because such export would be detrimental to the national security while the Secretary of Commerce would be required under Section 4(b)(2) to decontrol the same commodity because he lacked adequate evidence that its export would constitute a threat to national security. It should be obvious from our earlier comments which criteria we prefer.

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